

ID: CCA_2016030218243315

UILC: 6050I.00-00

Number: **201633033**

Release Date: 8/12/2016

From:

Sent: Wednesday, March 02, 2016 6:24:33 PM

To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: FW: Question - Pawn Contracts

The question raised is whether a pawnbroker located in [REDACTED] that accepts [REDACTED] under a contract for purchase (which, in substance, is essentially a contract for a pawn loan) has engaged in a retail sale of a consumer durable, for purposes of Treas. Reg. section 1.6050I-1(c)(1)(iii), when the contracts are renewed with the payment, by the customer, of an option fee. If the payment of the option fee by the customer is considered to be payment for a retail sale by the pawnbroker, of a consumer durable ([REDACTED], in this case), then the pawnbroker would be required to treat the receipt of certain monetary instruments as the receipt of cash for purposes of the section 6050I reporting requirement. The contracts entered into between the pawnbroker and the customer are contracts for purchase, as defined in [REDACTED]. For purposes of section [REDACTED], the customer is treated as having sold [REDACTED] to the pawnbroker. Under the terms of the contract, the customer may rescind the sale by paying an option fee.

The attached file contains e-mailed Chief Counsel advice, dated 8-4-15, that concluded, for contracts that are contracts for purchase under section [REDACTED], the payment of an option fee in the context of a pawnshop business transaction constitutes a retail sale, by the pawnbroker, for purposes of the section 6050I reporting requirement. Section [REDACTED] however, defines an option, in the context of a contract for purchase as “the fixed time and the fixed price agreed upon by the customer and the pawnbroker in which a contract for purchase may but does not have to be rescinded by the customer.” That is, the customer is merely rescinding his sale of [REDACTED] to the pawnbroker, not repurchasing [REDACTED], when he pays the option fee. The payment of a fee by the customer to rescind a sale to the pawnbroker is not a retail sale by the pawnbroker of [REDACTED] back to the customer.

The e-mailed advice correctly cited [REDACTED], which contains the definition of “contract for purchase,” and correctly described the contract under [REDACTED] state law, but made no mention of section [REDACTED] which contains the

definition of the term “option” in this context, indicating that this definition may not have been taken into consideration. Had it been, I believe the conclusion in the e-mail, that the “payment of an option fee in the context of a pawnshop business transaction constitutes a ‘retail sale’ for purposes of defining ‘cash’ under I.R.C. § 60501” would have been different.

It has been suggested that some of the pawnbroker’s customers may be entering into contracts for purchase, and regularly paying option fees when renewing the contacts, as an alternative to paying for . This would further support the position that the payment of the option fee by the customer is not intended as a payment for . Please contact me if you have any questions. I apologize for the delay in responding.